

REMARKS

REVIEW

The current application sets forth claims 1 through 17 of which claim 1 is the only independent claim. Presently, no claims have been indicated as allowed in view of the prior art. Claims 4, 8, 9, 12, 13, and 17 stand objected to as being dependent on a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Claims 1 through 3, 5 through 7, 11, 14, 15 stand collectively rejected under 35 U.S.C. §103(a) as unpatentable over *Gies et al.* (U.S. Patent No. 5,355,910) in view of *Klomhaus et al.* (U.S. Patent No. 5,194,038). Claim 16 stands rejected under 35 U.S.C. §103(a) as unpatentable over *Gies et al.* in view of *Klomhaus et al.* and in further view of *Barton* (U.S. Pat. No. 6,210,266). Finally, Claim 10 stands rejected under 35 U.S.C. §103(a) as unpatentable over *Gies et al.* in view of *Klomhaus et al.*, and in further view of *Opperman et al.* (U.S. 6,609,535).

35 U.S.C. §103(a) REJECTIONS

Examiner maintains a rejection of the claims under §103(a) and at base, combines *Gies, et al.*, and *Klomhaus, et al.* to render the independent claim 1 obvious. If the combination did not render the independent claim obvious, however, the remaining claims would also be non-obvious in light of the combination.

Claims 1 through 3, 5 through 7, 11, 14, and 15

The present invention as characterized by the claims includes a two-layer flap where one layer is pliable, and the other is rigid. The valve opens in response to pressure and closes due to the rigid layer seeking its original generally planar shape, or by a restorative force. The sealing flap is a separate component from the housing. In other words, the flap is non-integral.

The valve taught by *Gies et al* includes a flap comprised of two layers, a relatively flexible layer and two strips of relatively rigid plastics material. Col. 1, ll. 25–48. One of the plastic strips is used as a mounting strip to aid in securing the flap to the valve frame. ll. 39-44; Col. 3, ll. 52-55. The second plastic strip is affixed to the lower portion of the flexible layer with a gap in between the first and second strips. Col. 1, ll. 44-49; Col 4, ll. 8-14. The gap allows a hinging motion of the flap. The purpose of the second strip is to prevent warping or deformation of the flexible layer. Col. 1, ll. 53-55; Col. 4, ll. 18-20. The valve in *Gies et al* also teaches that the flap is designed to close under the influence of gravity. Col. 3, ll. 33-36. The structure described in *Gies et al* would not close properly in any other orientation. In other words, if the valve of *Gies et al* were installed upside down, the flap would fall open and remain open.

Examiner maintains the position that *Klomhaus et al* provides to *Gies, et al*, the element of a rigid layer that operates to close the flap irrespective of gravity. The combined teachings must still teach or suggest every limitation of the claimed invention. MPEP § 2143.03. In the present case, the combined references simply do not teach a non-integral, two layer sealing flap having a pliable layer and a rigid layer that is secured to a valve housing by fasteners, and where a rigid layer operates to close the two-layer flap.

The structures of the two references are too different from each other to be combined in a way to achieve the structure of the present invention as set forth in the amended claims. The combination of the structures taught by these two references would render a structure far different from the present invention. Further, Applicant must reassert that the combination would change the operating principles of both of the references, and as such, cannot be used to render the present invention obvious. Respectfully, Examiner erroneously dismisses the applicability of this rule of law and takes a position that is contrary to MPEP and legal mandates. *See* MPEP § 2143.02 (pg. 2100-132, 8th Ed.). *Keller* does not overcome this requirement.

Therefore, the proposed combination does not teach all of the elements of the claimed invention, in light of the above amendments, as is required under the MPEP. As such, Claims 1-3, 5-7, 11, 14 and 15 are allowable over the references cited. Since Claims 10 and 16 depend from allowable claims, they are likewise allowable for the same reasons. As such, it is believed that all of the outstanding 35 U.S.C. §103(a) rejections are traversed and their withdrawal is earnestly solicited.

CITED RELEVANT PRIOR ART

It is not believed that any of the prior art cited but not relied upon, alone or in combination either with each other or other cited prior art teaches, discloses, suggests or makes obvious the claimed features of the present invention.

CONCLUSION

In view of the foregoing comments, Applicants respectfully request withdrawal of the current grounds of rejection and the issuance of a formal Notice of Allowance. The Examiner is invited to telephone the undersigned at his convenience should only minor issues remain after consideration of this amendment in order to permit early resolution of the same.

Respectfully submitted,



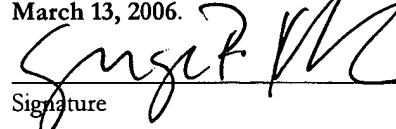
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